

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

FORTY-THIRD LEGISLATIVE DAY
MONDAY, FEBRUARY 21, 2005

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:45 a.m.

Roll call showed all members present except Senators Brandt, Compton, Goedde, and Jorgenson, absent and formally excused by the Chair; and Senators Andreason, Cameron, Little, Noble, and Sweet, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Crista Cardwell, Page.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senators Andreason, Cameron, Little, Noble, and Sweet were recorded present at this order of business.

SCR 112 **BY JUDICIARY AND RULES COMMITTEE** **A CONCURRENT RESOLUTION**

STATING FINDINGS OF THE LEGISLATURE AND
REJECTING CERTAIN STANDARDS FOR COMMERCIAL
DRIVING SCHOOLS INCORPORATED BY REFERENCE
INTO THE RULES OF THE STATE BOARD OF EDUCATION
GOVERNING UNIFORMITY.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain standards for commercial driving schools incorporated by reference into the rules of the State Board of Education governing uniformity are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Section 1.0, Subsection 1.8 pertaining to course content outline

and sequence, Section 9.0, Subsection 9.3.a, pertaining to the number of days for conducting the training program, and Subsections 9.4.f and 9.4.g, both pertaining to maximum hours of classroom instruction, incorporated by reference into the rules of the State Board of Education governing uniformity, IDAPA 08.02.02, in Section 004, Subsection 07 and Section 230, Subsection 01, adopted as pending rules under Docket Number 08-0202-0406, be, and the same are hereby rejected and declared null, void and of no force and effect.

SCR 112 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 18, 2005

The JUDICIARY AND RULES Committee reports out **S 1068** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1068** was referred to the Fourteenth Order of Business, General Calendar.

February 18, 2005

The JUDICIARY AND RULES Committee reports out **S 1122** with the recommendation that it do pass.

DARRINGTON, Chairman

S 1122 was filed for second reading.

February 18, 2005

The JUDICIARY AND RULES Committee reports out **HCR 7** with the recommendation that it do pass.

DARRINGTON, Chairman

HCR 7 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 18, 2005

The COMMERCE AND HUMAN Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Gavin Gee to the Idaho Endowment Fund Investment Board, term to expire April 11, 2008.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 18, 2005

The RESOURCES AND ENVIRONMENT Committee reports out **HJM 1** and **H 91** with the recommendation that they do pass.

SCHROEDER, Chairman

HJM 1 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 91 was filed for second reading.

February 21, 2005

The STATE AFFAIRS Committee reports out **H 24**, **H 39**, **H 22**, and **HJM 2** with the recommendation that they do pass.

BURTENSCHAW, Chairman

H 24, **H 39**, and **H 22** were filed for second reading.

HJM 2 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 18, 2005

The RESOURCES AND ENVIRONMENT Committee reports out **H 106** with the recommendation that it be referred to the State Affairs Committee.

SCHROEDER, Chairman

There being no objection, **H 106** was re-referred to the State Affairs Committee.

February 18, 2005

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Steve Klatt to the Park and Recreation Board, term to expire July 1, 2010.

SCHROEDER, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 18, 2005

Mr. President:

I transmit herewith **H 84**, **H 170**, **HCR 13**, **HCR 14**, **H 103**, **H 34**, **H 36**, **H 37**, **H 38**, **H 56**, **HCR 11**, **H 144**, **H 102**, **H 146**,

H 50, **H 45**, **H 42**, **H 43**, **H 67**, **H 70**, **H 78**, **H 79**, **H 80**, **H 81**, **H 82**, and **H 131** which have passed the House.

JUKER, Chief Clerk

H 84, **H 170**, **HCR 13**, **HCR 14**, **H 103**, **H 34**, **H 36**, **H 37**, **H 38**, **H 56**, **HCR 11**, **H 144**, **H 102**, **H 146**, **H 50**, **H 45**, **H 42**, **H 43**, **H 67**, **H 70**, **H 78**, **H 79**, **H 80**, **H 81**, **H 82**, and **H 131** were filed for first reading.

February 18, 2005

Mr. President:

I return herewith Enrolled **S 1003** and **SCR 105** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1003** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Enrolled **SCR 105** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Brandt was recorded present at this order of business.

The President Pro Tempore announced that **HCR 6** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator McKenzie, seconded by Senator Stennett, **HCR 6** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate went at ease and resolved itself into the Committee for the Memorial Service. The President Pro Tempore called Senator Corder and Senator Kelly to the Chair to preside over the Memorial Service.

MEMORIAL SERVICE

The Memorial Service was presented to the members of the Senate with Senators Corder and Kelly, Co-chairmen, presiding. The Invocation and remarks were delivered by Senator Corder. Senator Kelly introduced the Mountain Home High School Choir, directed by S. Blake Olmstead. Musical selections "*Come in and Stay Awhile*," "*Prayer of the Children*," and "*Idaho, The Place for Me*" were performed by the Choir. A memorial to Idaho's fallen military members and civilians who have died during the conflict in Iraq was presented by members of the Senate. Benediction was offered by Pastor Don Hardenbrook, Senate Chaplain.

Following the Memorial Service, Senator Kelly declared the committee dissolved and the President Pro Tempore called the Senate to order.

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the following attaches were elected to fill the offices provided for the *Constitution* of the State of Idaho and by statute:

Matt Weigand Minority Staff Assistant
 Leigh Hinds Republican Secretarial Pool
 David Booth

Pages:

Alison Coats, Rupert
 Chad Reiser, Grace
 Alyssa Welch, Buhl
 April Palmer, Weiser
 Daniel Grad, Cascade
 Crista Cardwell, Coeur d'Alene
 Chert Griffith, Kimberly
 Jacquilynn Hart, Nampa
 Sam Vanderwall, Nampa
 Noel Herrick, Boise

Whereupon the President Pro Tempore instructed the Sergeant at Arms to escort the attaches to the Secretary's desk at which time the Oath of Office was administered to the elected attaches and they were escorted from the Chamber.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
 House Petitions, Resolutions, and Memorials**

S 1156

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ACQUISITION OF PERSONAL IDENTIFYING INFORMATION BY FALSE AUTHORITY; AMENDING CHAPTER 31, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3126A, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL FOR ANY PERSON TO FALSELY ASSUME OR PRETEND TO BE A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR AN OFFICER OR EMPLOYEE ACTING UNDER AUTHORITY OF THE UNITED STATES OR ANY DEPARTMENT, AGENCY OR OFFICE THEREOF OR OF THE STATE OF IDAHO OR ANY DEPARTMENT, AGENCY OR OFFICE THEREOF, AND IN SUCH PRETENDED CHARACTER, SEEK, DEMAND, OBTAIN OR ATTEMPT TO OBTAIN PERSONAL IDENTIFYING INFORMATION OF ANOTHER PERSON; AND AMENDING SECTION 18-3128, IDAHO CODE, TO PROVIDE FELONY PENALTIES FOR THE CRIME OF ACQUISITION OF PERSONAL IDENTIFYING INFORMATION BY FALSE AUTHORITY; AND DECLARING AN EMERGENCY.

S 1157

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSES FOR DISABLED PERSONS AND TO PROVIDE A CORRECT CODE REFERENCE.

S 1156 and **S 1157** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 84, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 170, by Agricultural Affairs Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

HCR 13 and **HCR 14**, by Business Committee, were introduced, read at length, and referred to the Commerce and Human Resources Committee.

H 103, by Local Government Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 34, **H 36**, **H 37**, and **H 38**, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 56, **H 144**, **H 102**, and **H 146**, by Transportation and Defense Committee, were introduced, read the first time at length, and referred to the Transportation Committee.

HCR 11, by Transportation and Defense Committee, was introduced, read at length, and referred to the Transportation Committee.

H 50, **H 45**, **H 42**, and **H 43**, by Health and Welfare Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 67 and **H 70**, by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 78, **H 79**, **H 80**, **H 81**, **H 82**, and **H 131**, by Judiciary, Rules, and Administration Committee, were introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 51, by Transportation and Defense Committee, was read the second time at length and filed for third reading.

S 1080, **S 1081**, and **S 1083**, by Transportation Committee, were read the second time at length and filed for third reading.

S 1141 and **S 1142**, by Health and Welfare Committee, were read the second time at length and filed for third reading.

H 59, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1149, by Education Committee, was read the second time at length and filed for third reading.

S 1094, by Health and Welfare Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1030 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Davis, Gannon, Geddes, Hill, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Brandt, Compton, Goedde, Jorgenson. Total - 4.

Total - 35.

Whereupon the President Pro Tempore declared **S 1030** passed, title was approved, and the bill ordered transmitted to the House.

S 1091 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bunderson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Davis, Gannon, Geddes, Hill, Kelly, Keough, Langhorst, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--Little, Stegner. Total - 2.

Absent and excused--Compton, Goedde, Jorgenson. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **S 1091** passed, title was approved, and the bill ordered transmitted to the House.

S 1065 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Davis, Gannon, Geddes, Hill, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Compton, Goedde, Jorgenson. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **S 1065** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:25 p.m. until the hour of 10:45 a.m., Tuesday, February 22, 2005.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary